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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6800/2015**

JAGDISH CHAND GUPTA

..... Petitioner

Through: Mr. Mukul Gupta, Sr. Advocate with
Mr. Vibhor Garg and Ms. Suvara Kashyap,
Advocates

versus

UNION OF INDIA

..... Respondent

Through: Mr. Yeeshu Jain, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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20.07.2015

CM No.12442/2015 (Exemption)

1. Allowed subject to just exceptions.

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2. Issue notice to the respondent.

3. Mr. Jain accepts notice on behalf of the respondent.

4. In view of the order that I propose to pass, Mr. Jain says that no counter affidavit needs to be filed, at this stage.

5. By this writ petition, a challenge is laid to the communication dated 09.10.2014, whereby the petitioner's request for allotment of an alternate land was rejected. The reason supplied in the impugned communication is as follows :-

(i). Occupancy status in respect of property bearing no.3792/4, Kanhaiya Nagar, Delhi (in short the Kanhaiya Nagar property) and property no.1589

Madrasa Road, Kashmere Gate, Delhi (in short the Madrasa Road property); not provided.

(ii). No documents are provided vis-a-vis property bearing no.C/9/6, First Floor, Sector-8, Rohini, Delhi-110085 (in short the Rohini property); which, according to the petitioner had been rented out by him.

6. It is to be noticed that in the first instance, information vis-a-vis various deficiencies noted by the Land & Building Department, Govt. Of NCT was intimated to the petitioner vide communication dated 02.09.2013 / 30.09.2013.

6.1 Amongst various aspect on which information was sought from the petitioner, information was also asked for with respect to the aforementioned properties. The exact query (which is set out at serial no.13, of the aforementioned communication), was as follows :-

“..Ownership proof of property in r/o

1). C/9/6, Ist Floor, Sector-8, Rohini, Delhi-85

2). 3792/4, Kanhiya Nagar, Delhi

3). 1589, Madrasa Road, Kashmere Gate, Delhi-6..”

6.2 In response to the same, the petitioner filed the necessary information, which included, an affidavit. In the affidavit dated 04.07.2014, in paragraph 2 and 3, following averments were made :-

“..2. That the deponent (including unmarried child) does not have any house /plot/flat in Delhi and Delhi Chhawani, except in the village Abadi, from the date of land acquisition till today.

3. That the applicant was reside at the above said address C-9/6, Sec.-8, Rohini, Delhi-110085 which was a rented accommodation of applicant..”

6.3 It is because the respondent was not satisfied that when the matter

was taken up in the meeting held by the Land and Building Department on 27.08.2014, the petitioner's case was rejected on the ground that occupancy status of the aforementioned properties, was not given.

6.4 Pertinently, in the communication dated 02.09.2013 / 30.09.2013, information sought was with regard to the "ownership proof of the properties". It appears that the goalpost was changed to some extent as in the meeting of 27.08.2014, occupancy certificate of the aforementioned properties was sought. Rejection letter also refers to the purported failure on the part of the petitioner to supply occupancy status of the aforesaid properties.

6.5 The learned counsel for the petitioner submits that the affidavit furnished by the petitioner ought to have sufficed as it was categorically stated in the affidavit that the petitioner did not own any house / plot/flat in Delhi except in Village abadi.

6.6 In so far as the property at Rohini was concerned, learned counsel submitted that the petitioner had indicated, that it was a rented accommodation.

6.7. Mr. Gupta, the learned counsel for the petitioner says that since the information vis-a-vis ownership was sought, the petitioner thought that this affidavit would suffice.

7. The learned counsel for the respondent, on the other hand, says that the petitioner ought to have given information on his own with regard to the status of the properties, whether they were owned or occupied in any other capacity by him.

8. Having heard the learned counsel for the parties and perused the record, in my view, the Land and Building Department ought to have

issued further communication to the petitioner after receipt of the affidavit calling upon him to furnish documents, if any, in his possession vis-a-vis the aforementioned properties. It is trite to state that no person can prove a state of affairs in the negative. In case the Recommendation Committee had any material, to the contrary, it ought to have put that material to the petitioner and then elicited his response qua such material.

9. In these circumstances, in my view, the best course forward would be to set aside the communication dated 09.10.2014 and permit the petitioner to appear before the Recommendation Committee, with the necessary information, which is available with him. This would, in particular, apply to the Rohini property since the petitioner has taken a stand that the said accommodation was rented out by him. If the petitioner takes the stand in so far as the other two properties (i.e. Kanhaiya Nagar property and Madrasa Road property) are concerned, that he has no association and / or knowledge qua them then, he will file an affidavit in that behalf. In case the Recommendation Committee has material available with it, which points out to the contrary, the same will be put to the petitioner and if, the petitioner were to fail in satisfying the Recommendation Committee then, the Recommendation Committee, will be free to draw the necessary inference in the matter. It is ordered accordingly.

10. The petitioner will, thus, appear before the Recommendation Committee on a notice being issued by it, indicating to him, the venue, time and the date when, he is required to present himself, before it.

10.1 Needless to say, the Recommendation Committee will pass a speaking order and furnish a copy of the same to the petitioner. The

aforesaid exercise will be done with expedition though, no later than four (4) months from today.

11. With the aforesaid directions in place, the captioned petition is disposed of.

RAJIV SHAKDHER, J

JULY 20, 2015

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